

## **IC 31-19-24**

### **Chapter 24. Court Proceeding to Request Release of Adoption History Information Not Available From State Registrar**

#### **IC 31-19-24-1**

##### **Petitions; contents**

Sec. 1. (a) Any interested person may file a petition with any court with probate jurisdiction in Indiana requesting the release of:

- (1) medical information;
- (2) nonidentifying information; or
- (3) identifying information;

that is not available through the state registrar or not allowed to be released by the state registrar.

(b) The contents of a petition must include to the best knowledge of the petitioner the following:

- (1) The full name and current address of the petitioner.
- (2) The adopted person's:
  - (A) full name;
  - (B) sex;
  - (C) date of birth;
  - (D) place of birth, if known; and
  - (E) current address, if known.
- (3) The county of the adoption proceeding, if known.
- (4) The name and address of the agency that placed the adopted person, if known.
- (5) The full name and current address of the petitioners for adoption, if any.
- (6) The date of the adoption proceeding, if known.
- (7) The full name and current address of the birth parents, if known.
- (8) The nature of the:
  - (A) medical;
  - (B) identifying; or
  - (C) nonidentifying;

information being sought.

(9) An affirmation:

(A) by an attending physician, if medical information is sought, that indicates:

- (i) the nature of the illness;
- (ii) that the illness is believed to be hereditary or congenital; or
- (iii) why the information to be sought or shared is necessary for diagnosis or treatment of any person;

(B) by the petitioner, if medical, identifying, or nonidentifying information is sought, that sets forth the reasons why the release of the information may be beneficial to the welfare of the adoptee, a birth parent, a relative of an adoptee, or a relative of a birth parent; and

(C) that the medical, identifying, or nonidentifying information sought:

- (i) is not available through the state registrar; or
  - (ii) is not allowed to be released by the state registrar.
- (10) A statement by the petitioner that the petitioner agrees to the payment of:
  - (A) a reasonable fee for the services of a confidential intermediary if a confidential intermediary is appointed under section 2 of this chapter; and
  - (B) reasonable fees and any actual expenses of an attorney, a child placing agency, or a professional health care provider (as defined in IC 34-6-2-117) that is requested to search its records and release information under sections 2 through 11 of this chapter.
- (11) A description of the medical, identifying, or nonidentifying information being sought.

*As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.12; P.L.1-1998, SEC.163; P.L.191-2011, SEC.38; P.L.97-2013, SEC.2.*

#### **IC 31-19-24-2**

##### **Notice to state registrar; opportunity to respond; appointment of confidential intermediary; requirements**

Sec. 2. Upon the filing of a petition under section 1 of this chapter, the court shall:

- (1) establish that the state registrar:
  - (A) has been served with notice of the petitioner's request for disclosure of information; and
  - (B) has been afforded the opportunity to respond to the petitioner's request for disclosure of information; and
- (2) appoint a confidential intermediary after consultation with the state registrar or the state registrar's designee if the:
  - (A) requirements of subdivision (1) are complied with; and
  - (B) petitioner has shown:
    - (i) an emergency medical need;
    - (ii) good cause relating to the welfare of the adoptee, a birth parent, a relative of an adoptee, or a relative of a birth parent;
    - (iii) an interest in having contact with a pre-adoptive sibling; or
    - (iv) if the petitioner is a pre-adoptive sibling, an interest in having contact with an adoptee.

A confidential intermediary appointed under subdivision (2) may be any person who the court reasonably believes is competent to carry out the responsibilities described in section 3 of this chapter and meets the qualifications under section 14 of this chapter.

*As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.13; P.L.191-2011, SEC.39; P.L.97-2013, SEC.3.*

#### **IC 31-19-24-3**

##### **Requirements of court; order to confidential intermediary**

Sec. 3. Whenever the court appoints a confidential intermediary

under section 2(2) of this chapter, the court shall do the following:

(1) Consider:

(A) the highly emotional and personal issues relating to adoption;

(B) the privacy rights of both birth parents, adoptees, and pre-adoptive siblings;

(C) the reasons the medical, identifying, or nonidentifying information is being sought under section 1 of this chapter; and

(D) any irreparable harm to a birth parent, an adoptee, or a pre-adoptive sibling that may arise if appropriate consideration is not given to the issues described in clauses (A) through (C).

(2) Provide the confidential intermediary with an order authorizing the confidential intermediary to search certain records that may include:

(A) the division of public health statistics;

(B) the department or local office;

(C) any licensed child placing agency; or

(D) any professional health care provider (as defined in IC 34-6-2-117).

An order under this subdivision must specify the information to be sought by the confidential intermediary.

(3) Specify the direct contact, if any, that a confidential intermediary may have with any person from whom the medical, identifying, or nonidentifying information is being sought, such as providing that the confidential intermediary may only inform the person of the existence of the adoption history program administered by the state registrar under IC 31-19-18 through IC 31-19-23, this chapter, IC 31-19-25, and IC 31-19-25.5.

(4) Specify the limitations, if any, that the court considers necessary to prevent the confidential intermediary's search under this chapter from resulting in harm to a birth parent, an adoptee, or a pre-adoptive sibling.

(5) Require the confidential intermediary to affirm under oath that the confidential intermediary agrees to act in good faith and perform its responsibilities in accordance with sections 2 through 9 of this chapter.

(6) Instruct the confidential intermediary to act as quickly as possible.

*As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.14; P.L.1-1998, SEC.164; P.L.145-2006, SEC.259; P.L.191-2011, SEC.40; P.L.128-2012, SEC.74.*

#### **IC 31-19-24-4**

##### **Search for information and persons**

Sec. 4. The confidential intermediary shall:

(1) make complete and reasonable efforts to locate the medical, identifying, or nonidentifying information;

- (2) attempt to locate any person necessary to obtain the medical, identifying, or nonidentifying information;
- (3) inform the person contacted of the medical or other need set forth by the petitioner; and
- (4) obtain the needed medical, identifying, or nonidentifying information.

*As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.15.*

#### **IC 31-19-24-5**

##### **Fee for cost of search**

Sec. 5. The confidential intermediary may charge a reasonable fee for the cost of making a search under section 4 of this chapter.

*As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.16.*

#### **IC 31-19-24-6**

##### **Confidentiality of communications; manner of communicating**

Sec. 6. All communications under this chapter are confidential, and any communication shall be made by a personal contact by the confidential intermediary.

*As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.17.*

#### **IC 31-19-24-7**

##### **Confidentiality of information filed with court**

Sec. 7. Information released to the confidential intermediary under this chapter shall be filed with the court in a manner designed to:

- (1) protect the identity and current location of the person releasing the information; and
- (2) preserve the confidentiality of the medical, identifying, or nonidentifying information that the confidential intermediary obtains.

*As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.18.*

#### **IC 31-19-24-8**

##### **Court ordered release of information**

Sec. 8. (a) If a person does not agree to release medical, identifying, or nonidentifying information through the confidential intermediary, the court may order the release of the requested medical, identifying, or nonidentifying information after considering any information regarding the person's refusal to release the requested information to the confidential intermediary.

(b) If the court orders the release of the information under this section, the court, upon receipt of the court ordered information, shall follow the procedures described under section 10 of this chapter.

*As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.19.*

**IC 31-19-24-9****Reports and supporting documents of guardian or court appointed special advocate; confidentiality; release of information**

Sec. 9. (a) Whenever a confidential intermediary obtains information under this chapter, the confidential intermediary shall submit to the court:

- (1) a written report; and
- (2) any supporting documents;

describing the information obtained by the confidential intermediary.

(b) The information that the confidential intermediary submits to the court under this section:

- (1) is confidential; and
- (2) may be released to the petitioner only upon a court order under section 10 of this chapter.

*As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.20.*

**IC 31-19-24-10****Review and release of court ordered information**

Sec. 10. The court shall review the medical, identifying, or nonidentifying information submitted under section 9 of this chapter. The court may order the release of the information to the petitioner under this section to the extent that the court determines is just based upon the emergency medical need or good cause shown under section 2(2)(B) of this chapter.

*As added by P.L.1-1997, SEC.11.*

**IC 31-19-24-11****Imminent threat of death or serious bodily injury; proceedings without written pleadings**

Sec. 11. If an imminent threat of death or serious bodily injury exists, the court may conduct the proceedings authorized by this chapter without written pleadings.

*As added by P.L.1-1997, SEC.11.*

**IC 31-19-24-12****Immunity of confidential intermediary**

Sec. 12. (a) A confidential intermediary discharging in good faith the confidential intermediary's responsibilities under this chapter is immune from all civil and criminal liability that otherwise might result.

(b) The provisions regarding the representations, duties, and appointment of a guardian ad litem or court appointed special advocate described under IC 31-32-3 apply to a confidential intermediary appointed under this chapter.

*As added by P.L.1-1997, SEC.11. Amended by P.L.196-1997, SEC.21.*

**IC 31-19-24-13****Closed proceedings**

Sec. 13. All hearings held in proceedings under this chapter shall be held in closed court without admittance of any person other than:

- (1) essential officers of the court;
- (2) the parties;
- (3) witnesses;
- (4) counsel;
- (5) persons who have not previously consented to the adoption but are required to consent to the adoption; and
- (6) representatives of the agencies present to perform their official duties.

*As added by P.L.1-1997, SEC.11.*

#### **IC 31-19-24-14**

##### **Appointment of confidential intermediary; requirements**

Sec. 14. A court may only appoint a person to serve as a confidential intermediary under this chapter if the person:

- (1) agrees to abide by the order of the court under section 3 of this chapter without advocating either the opening or maintaining the confidentiality of adoption records;
- (2) does not have a personal relationship with either the petitioner or the person from whom the medical, identifying, or nonidentifying information is being sought; and
- (3) agrees to comply with the limitations set by the court in searching for the information specified by the court under section 3(4) of this chapter.

*As added by P.L.196-1997, SEC.22.*

#### **IC 31-19-24-15**

##### **Breach of confidentiality**

Sec. 15. A person who knowingly or intentionally releases information in violation of sections 2 through 11 of this chapter commits a Class A misdemeanor.

*As added by P.L.196-1997, SEC.23.*

#### **IC 31-19-24-16**

##### **Penalty**

Sec. 16. Failure of the confidential intermediary appointed under this chapter to comply with a court order under sections 2 through 11 of this chapter is punishable as contempt of court.

*As added by P.L.196-1997, SEC.24. Amended by P.L.2-1998, SEC.77.*